

REMARKS

This responds to the Office Action mailed on June 14, 2006.

No claims are amended, no claims are canceled, and no claims are added; as a result, claims 1-20 are now pending in this application.

§102 Rejection of the Claims

Claims 15-20 were rejected under 35 USC § 102(e) as being anticipated by Chinta et al. (U.S. 6,879,995) in view of Perholtz et al. (U.S. 5,732,212).

The Applicant respectfully traverses this rejection on the grounds that the claims are distinguishable over a patent which did not issue until April 12, 2005 and is not prior art. Additionally, Applicant maintains its right to swear behind documents which are cited in a rejection under 35 U.S.C. § 102(e). Statements herein distinguishing the claimed subject matter over the cited documents are not to be interpreted as admissions that the cited documents are prior art.

Anticipation requires the disclosure in a single prior art reference of each element of the claim under consideration. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). It is not enough, however, that the prior art reference discloses all the claimed elements in isolation. Rather, "[a]nticipation requires the presence in a single prior reference disclosure of each and every element of the claimed invention, *arranged as in the claim*." *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984) (citing *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983)) (*emphasis added*). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989); MPEP § 2131.

The Office Action admits that Chinta does not disclose fetching a history of a status of an object as recited in claims 15-20.¹ Consequently, as a matter of law, Chinta does not anticipate claims 15-20 under 35 USC § 102(e), and the Applicant respectfully requests the withdrawal of this rejection and the allowance of claims 15-20.

¹ Office Action, page 8.

§103 Rejection of the Claims

Claims 12-14 were rejected under 35 USC § 103(a) as being unpatentable over Chinta et al. (U.S. 6,879,995) in view of Wong et al. (U.S. 6,226,659). The Applicant respectfully traverses this rejection.

The Patent Office bears the initial burden of factually supporting a *prima facie* case of obviousness.² In order for the Office Action to establish a *prima facie* case of obviousness, three criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure.³

U.S. Patent No. 6,879,995 to Chinta et al. ("the '995 patent" or "Chinta") relates to a system and method for message logging for networked applications running on application servers.⁴ The application servers execute a logging service that accepts requests from clients to log messages.⁵ For example, for an HTTP request, HTTP variables included in the request may be recorded.⁶ The logging service may automatically rotate log files.⁷ The logging service also handles error conditions or potential error conditions such as low storage or out of storage conditions.⁸

U.S. Patent No. 6,226,659 to Wong relates to a method and apparatus for processing reports. Client report commands are assigned to one or more report server processes. The report server automatically adjusts the number of report processes based on the report processing load

² MPEP 2142.

³ MPEP § 2142 (citing *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)).

⁴ U.S. Patent No. 6,879,995, Col. 5, lines 20-22.

⁵ *Id.*, (Col. 5, lines 33-34).

⁶ *Id.*, Col. 5, lines 40-42.

⁷ *Id.*, Col. 5, lines 53-54.

⁸ *Id.*, Col. 5, lines 63-64.

requirements. A report queue stores client report commands as they are received from the client applications. A report queue manager manages the report queue.⁹

The Office Action has failed to established a proper motivation, or point to a specific suggestion in the art, to combine Chinta and Wong. Additionally, the general motivating factor cited in the Office Action (*i.e.*, to provide an efficient reporting system) is insufficient evidence to show that one of skill in the art would have been motivated to specifically combine Chinta and Wong.¹⁰ The Office Action has therefore failed to establish a *prima facie* case of obviousness regarding claim 12.

Claims 12-14 are patentable over Chinta in view of Wong at least because neither Chinta nor Wong, either alone or in combination, disclose each and every element of claims 12-14.

Claim 12 recites that a “server application . . . build[s] a page comprising an object, control information, and an initial status of the object.” The Office Action, on page 3, states that Chinta discloses that from a web browser, a client launches a request for a service to an application server such as selecting a particular application component. The Office Action goes on to state that the application component is executed by various different application servers, and the average response time for those servers is screened in order to determine the most efficient application.

Simply put, launching a server application from a web browser, as the Office Action contends, and then determining the most efficient server, as the Office Action further contends, have nothing to do with the claim feature “to build a page comprising an object, control information, and an initial status of the object.”

The Office Action further contends that Wong discloses a report queue that is automatically generated and stored by the report server, and that the queue in Wong stores report commands received from a client.¹¹ Claim 12 recites a server application to “queue a change in the status” of an object. A queue of report commands from a client is not the same as to “queue

⁹ U.S. Patent No. 6,226,659, Abstract.

¹⁰ See *In re Lee*, 277 F.3d 1338, 1342-44 (Fed. Cir. 2002) (There must be objective evidence and specific factual findings with respect to the motivation to combine references). See also *Ecolochem v. Southern California Edison Co.*, 277 F.3d 1361, 1372 (Fed. Cir. 2002) (broad conclusory statements regarding the teaching of multiple references, standing alone, are not evidence of obviousness).

¹¹ Office Action, page 3.

a change in the status” of an object. Moreover, neither Chinta nor Wong show or suggest “send[ing] the change in the status of the object to the client” as is recited in claim 12.

The Applicant respectfully submits that neither Chinta nor Wong, either alone or in combination, discloses all the limitations of claim 12. Therefore, claim 12 is patentable over Chinta in view of Wong as the Office Action combines them. Since claims 13 and 14 depend either directly or indirectly on claim 12, claims 13 and 14 contain all the limitations of claim 12, and like claim 12, are patentable over Chinta in view of Wong for the same reasons as claim 12, and more. The Applicant respectfully requests the withdrawal of the rejection of claims 12-14.

Claims 9-10 were rejected under 35 USC § 103(a) as being unpatentable over Harrison (U.S. 6,901,582) in view of Chinta et al. (U.S. 6,879,995). The Applicant respectfully traverses this rejection.

U.S. Patent No. 6,901,582 to Harrison relates to a system and method for monitoring the performance of an application. A graphical user interface (GUI) with on screen graphics represents the application architecture and component performance.¹² The system monitors the performance of an application by presenting a visual map of the architectural components and the data flow between the components, thereby providing a snapshot overview of the performance of the application.¹³ The system also provides for the reporting of the application performance via groupings of a plurality of components.¹⁴

U.S. Patent No. 6,879,995 to Chinta et al. (“the ‘995 patent” or “Chinta”) relates to a system and method for message logging for networked applications running on application servers.¹⁵ The application servers execute a logging service that accepts requests from clients to log messages.¹⁶ For example, for an HTTP request, HTTP variables included in the request may be recorded.¹⁷ The logging service may automatically rotate log files.¹⁸ The logging service also handles error conditions or potential error conditions such as low storage or out of storage conditions.¹⁹

¹² U.S. Patent No. 6,901,582, Abstract

¹³ *Id.*, Col. 2, lines 8-12, 19-21.

¹⁴ *Id.*, Col. 2, lines 22-26.

¹⁵ U.S. Patent No. 6,879,995, Col. 5, lines 20-22.

¹⁶ *Id.*, Col. 5, lines 33-34.

¹⁷ *Id.*, Col. 5, lines 40-42.

¹⁸ *Id.*, Col. 5, lines 53-54.

¹⁹ *Id.*, Col. 5, lines 63-64.

The Office Action has failed to established a proper motivation, or point to a specific suggestion in the art, to combine Harrison and Chinta. Additionally, the general motivating factor cited in the Office Action (*i.e.*, to provide an efficient monitoring system) is insufficient evidence to show that one of skill in the art would have been motivated to specifically combine Harrison and Chinta.²⁰ The Office Action has therefore failed to establish a *prima facie* case of obviousness regarding claims 9 and 10, and the Applicant respectfully requests the withdrawal of the rejection of claims 9 and 10.

Moreover, the proposed combination of Harrison and Chinta does not disclose each and every element of claim 9. Harrison does not disclose a script application that detects an object in a page and informs a client application of the object. Rather, Harrison relates to monitoring the performance of an application by displaying a graphical representation of the application architecture and components. Consequently, claim 9 is patentable over Harrison in view of Chinta. Since claim 10 is dependent on claim 9 and contains all the limitations of claim 9, and more, claim 10 is also patentable over Harrison in view of Chinta.

The Office Action further rejected claim 11 under 35 USC § 103(a) as being unpatentable over Harrison (U.S. Patent No. 6,901,582) and Chinta et al. (U.S. 6,879,995) in view of Robert et al. (U.S. 6,754,693).

The Office Action has failed to established a proper motivation, or point to a specific suggestion in the art, to combine Harrison, Chinta, and Roberts. Additionally, the general motivating factor cited in the Office Action (*i.e.*, to monitor a communication event) is insufficient evidence to show that one of skill in the art would have been motivated to specifically combine Harrison, Chinta, and Roberts.²¹ The Office Action has therefore failed to establish a *prima facie* case of obviousness regarding claim 11, and the Applicant respectfully requests the withdrawal of the rejection of claim 11.

The subject mater that Chinta relates to is outlined above, and Chinta, like Harrison, fails to disclose a script application that detects an object in a page and informs a client application of the object. Rather, Chinta relates to a system for message logging of networked applications

²⁰ See *In re Lee*, 277 F.3d 1338, 1342-44 (Fed. Cir. 2002) (There must be objective evidence and specific factual findings with respect to the motivation to combine references). See also *Ecolochem v. Southern California Edison Co.*, 277 F.3d 1361, 1372 (Fed. Cir. 2002) (broad conclusory statements regarding the teaching of multiple references, standing alone, are not evidence of obviousness).

²¹ *Id.*

running on application servers by having the application servers execute a logging service that accepts requests from clients to log messages. Roberts does not remedy this deficiency. Since neither Harrison, nor Chinta, nor Roberts disclose a script application that detects an object in a page and informs a client application of the object, claim 11 is patentable over Harrison and Chinta in view of Roberts.

Claims 1-8 were rejected under 35 USC § 103(a) as being unpatentable over Chinta et al. (U.S. 6,879,995) in view of LiVecchi et al. (U.S. 2001/0018701), and further in view of Zhao et al. (U.S. 6,799,213). The Applicant respectfully traverses this rejection.

The Office Action has failed to established a proper motivation, or point to a specific suggestion in the art, to combine Chinta, LiVecchi, and Zhao. Additionally, the general motivating factor cited in the Office Action (*i.e.*, to complete establishment of communication connections without creating a protocol error) is insufficient evidence to show that one of skill in the art would have been motivated to specifically combine Chinta, LiVecchi, and Zhao.²² The Office Action has therefore failed to establish a *prima facie* case of obviousness regarding claim 1, and the Applicant respectfully requests the withdrawal of the rejection of claim 1.

Additionally, claim 1 is patentable over Chinta in view of LiVecchi and further in view of Zhao since these references, either alone or in combination, do not disclose all the limitations of claim 1. The Office Actions admits that neither Chinta nor LiVecchi discloses “executing an application identified by the page to poll the server for a result of the operation” as recited in claim 1. However, contrary to the contention in the Office Action, Zhao does not remedy this deficiency. The portion of Zhao (Col. 8, lines 45-50) cited by the Office Action discusses polling only as it relates to a connection between a client and a server, and it does not disclose an application that is identified by a page to poll a server. By contrast, claim 1 recites “sending a request for an operation selected from a page to a server,” and “executing an application identified by the page to poll the server for a result of the operation.”

Since claims 2-4 are dependent on claim 1, they incorporate all the limitations of claim 1, and as such, the Office Action has failed to establish a *prima facie* case of obviousness in relation to those claims. The Applicant further respectfully requests the withdrawal of the rejection of claims 2-4.

²² *Id.*

Regarding claim 5, the Office Action does not provide specific reasons and evidence for its decision that claim 5 is unpatentable under 35 U.S.C. § 103(a), but rather conclusively states that claim 1 is exemplary of claim 5. The Applicant respectfully submits that by merely stating that claim 1 is exemplary of claim 5, the Office Action has failed to establish a *prima facie* case of obviousness for claim 5, and for claims 6-8 that are dependent on claim 5.

Conclusion

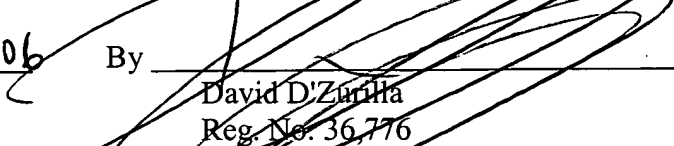
Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (612-371-2140) to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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Date September 14, 2006 By 
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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: MS Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 14th day of September, 2006.

Name Amy Moriarty

Signature 